

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY DECEMBER 3, 2008
DE CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON JANUARY 7, 2000
MEETING MINUTES**

Present: Paul Knowlton, Robert Hand, Steve Leach

Staff: Dawn Kinney and Alan Leo

AAG: Lara Nomani, AAG

1. **Call To Order:** The meeting was called to order at 9:10 a.m.
2. **Business:** The Committee reviewed case # 08-33, held informal conferences on cases # 08-20, #08-32 and #08-29 and made the recommendations which are outlined below:
3. **Application:** There were no new applications reviewed.
4. **Other:** The Committee reviewed a matrix for resolution of specific types of unlicensed provider complaints; this matrix will be presented to the Maine EMS Board for discussion when completed.
5. **Next Meeting:** The next meeting is scheduled for Thursday February 12, 2008 at 9:00 a.m.
6. **Adjourn:** The meeting was adjourned at 2:25 p.m.

COMPLAINT/INVESTIGATIONS CASES:

1. CASE # 08-33. (Added to Agenda; Licensee not Present)

The committee entered executive session for the purpose of reviewing investigation and discussing case # 08-33. Motion: To enter executive session pursuant to 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice. (Knowlton; Leach – motion carries). The committee entered executive session at 1:05 p.m. and executed at 1:15 p.m. During executive session, the committee reviewed the status of the investigation and discussed options for disposition of case # 08-33.

Case Summary and Rules Violation: After discussion, Leach moves to recommend that the Board finds that the Licensee operated an ambulance or EMS vehicle that was not licensed or authorized by the Board, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(26). Specifically, the service traded their pre-existing ambulance for a 2008 Braun and did not transfer the vehicle license.

Aggravating Circumstances:

- The violation was not self reported- it was discovered by MEMS staff during an annual inspection.

Mitigating Circumstances:

- The vehicle was new (2008), the old ambulance was licensed, the paperwork was not filed to transfer the license;
- The service assumed responsibility by immediately taking action to transfer the license; and
- There was no patient harm.

RECOMMENDED ACTION:

That this case be resolved with a Letter of Guidance to be kept on file for 5 years.

The Committee will consider case # 08-33 resolved and closed upon the ratification by the Board of the Letter of Guidance. (Leach; Hand - motion carries).

INFORMAL CONFERENCES:**1. CASE # 08-20; Licensee Present**

The committee entered executive session for the purpose of reviewing investigation and discussing case # 08-20. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 08-20. (Knowlton; Leach – motion carries). The committee entered executive session at 9:30 a.m. and executed at 10:50 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 08-20.

Case Summary and Rules Violation: After discussion, Leach moves to recommend that the Board find that the Service allowed an unlicensed provider to respond on its behalf, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(34), Aiding the practice of emergency medical treatment by a person not duly licensed under 32 M.R.S.A., Chapter 2-B. Specifically, the service allowed an unlicensed provider to respond on its behalf on thirty calls.

Aggravating Circumstances:

- This is the second such offense in 10 years; and
- The violation was not self reported and occurred over a 6 month period.

Mitigating Circumstances:

- The service initiated a plan of correction by redrafting the policy to close those gaps which contributed to this violation;
- The service assumed responsibility by immediately prohibiting the unlicensed provider from providing emergency medical treatment;
- It has been 10 years since the first violation and the service has a complete new administration;
- The service reports it has or will address the billing issues;
- The unlicensed provider was primary care giver in 6 of the 30 calls;
- A licensed provider was on every call except for one call; and
- There was no patient harm.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following conditions:

- 1) A reprimand;
- 2) The service shall follow the policy in place to prevent unlicensed providers from responding on the service's behalf;
- 3) The Licensee shall pay a fine of \$200.00 per violation for a total of \$6,000.00. All but \$600.00 of that fine amount shall be suspended based on the mitigating factors. The fine amount shall be paid in full at the time of the signing of the Consent Agreement; and
- 4) The service shall submit to Maine EMS an affidavit which states that the service has reviewed its billing records for those thirty calls, made any necessary corrections to reflect the unlicensed provider's billing status and certifies that these calls were billed in accordance with state and federal laws.

The Committee will consider case # 08-20 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Leach; Hand - motion carries).

2. CASE # 08-32; Licensee Present

The committee entered executive session for the purpose of reviewing investigation and discussing case # 08-32. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 08-32. (Knowlton; Leach – motion carries). The committee entered executive session at 9:30 a.m. and executed at 10:50 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 08-32.

Case Summary and Rules Violation: After discussion, Leach moves to recommend that the Board find that the Licensee failed to report a prior criminal conviction on his September 12, 2005 renewal application in violation of Maine EMS Rules (dated September 1, 2006), Chapter 11§ (1)(1), Obtaining a license or certification by fraud, by deceit, by misrepresentation, or by concealing material facts, and Chapter 11 § (1)(2), Violating a lawful order, rule or consent agreement of the Board. Specifically, the Licensee failed to report an August, 1989 conviction for Trafficking in Dangerous Knives (Class D) in violation of 17-A M.R.S.A, §1055.

Aggravating Circumstances:

- This is the second such offense in two consecutive applications where Licensee failed to report; and
- The Licensee was issued a Letter of Guidance by MEMS in October 06, 2005 for having failed to report the same conviction on his renewal application at issue here.

Mitigating Circumstances:

- The Licensee stated that he did not receive the first Letter of Guidance;
- The Licensee accepted responsibility; was remorseful and forthright with the committee;
- The conviction is almost 20 years old and was a misdemeanor; and

- The conviction resulted in a \$50.00 fine and would not have otherwise prevented him from obtaining a license.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following condition:

- 1) A reprimand.

The Committee will consider case #08-32 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. (Leach; Hand - motion carries).

3. CASE # 08-29; Licensee Present

The committee entered executive session for the purpose of reviewing investigation and discussing case # 08-29. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 08-29. (Knowlton; Leach – motion carries). The committee entered executive session at 1:30 p.m. and executed at 2:05 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 08-29.

Case Summary and Rules Violation: After discussion, Leach moves to recommend that the Board find that the Service license expired on August 1, 2008 and that the Service continued to respond and provide emergency medical treatment, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11 § (1)(3), Violating any of the provisions of 32 M.R.S.A., Chapter 2-B, and Chapter 11 §(1)(30), Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted. Specifically, the service continued to respond to nine calls and provide patient care until September 17, 2008.

Aggravating Circumstances: None

Mitigating Circumstances:

- The service accepted responsibility and has taken corrective action. The violation was self reported; and
- The violation occurred as a result of a change of administration which affected the forwarding of mail to the responsible individuals..

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following condition:

- 1). A reprimand.

The Committee will consider case # 08-29 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. (Leach; Hand - motion carries).

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent